

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-2, 4-13 and 15-18 are pending in the present application. Claims 1, 4, 12, 15 and 18 are amended by the present amendment. Support for the amended claims can be found at least at Figs. 2 and 4 and their corresponding description in the originally filed disclosure. No new matter is presented.

In the Office Action, Claims 1, 2 and 4 are rejected under 35 U.S.C. § 112, first paragraph; Claims 1, 6, 12, 15 and 18 are rejected under 35 U.S.C. § 101; Claim 18 is rejected under 35 U.S.C. 102(e) as anticipated by Simonoff (U.S. Pat. 7,043,529); Claims 1, 4-6, 8-9, 12 and 15 are rejected under 35 U.S.C. § 103(a) as unpatentable over Simonoff in view of Morris et al. (U.S. Pub. 2002/0052919, herein Morris); and Claims 2, 7, 10-11, 13 and 16-17 are rejected under 35 U.S.C. § 103(a) as unpatentable over Simonoff in view of Morris and one of Johnson et al. (U.S. Pat. 7,143,177, herein Johnson) and Erdelyi (U.S. Pub. 2004/0056879).

Regarding the rejection of Claims 1, 2 and 4 under 35 U.S.C. § 112, first paragraph, Claims 1 and 4 are amended to clarify that the instruction is sent to the information processing apparatuses accessing the service providing apparatus, as noted in the Office Action.

Accordingly, Applicant respectfully requests that the rejection of Claims 1, 2 and 4 under 35 U.S.C. § 112, first paragraph, be withdrawn.

The Office Action rejects Claims 1, 6, 12, 15 and 18 are rejected under 35 U.S.C. § 101, as directed to a “program per se” because they do not “include any functional structure of an apparatus”.

With regard to Claims 1 and 6, Applicant respectfully traverses this rejection as these claims recite “means for” limitations that are to be interpreted under 35 U.S.C. § 112, sixth paragraph. A proper analysis under 35 U.S.C. § 112, sixth paragraph, requires consideration of the structure corresponding to each “means” recited in the claim. 35 U.S.C. § 112, sixth paragraph, states that claim limitation expressed in means-plus-function language “shall be construed to cover the corresponding structure...described in the specification and equivalents thereof.” Thus, the claimed “means” includes the appropriate *structure* disclosed in the specification.

In support of this position, Applicants note *WMS Gaming, Inc. v. International Game Technology*, 184 F.3d 1339 (Fed. Cir. 1999), where the Federal Circuit held that the time domain processing means is a microprocessor programmed to carry out the algorithm. In *WMS Gaming*, the Federal Circuit noted the statutory requirement to focus on corresponding structure.

Furthermore, Applicant’s Figs. 2 and 4, and their corresponding description, disclose structure that can be used to perform the invention.

It does not appear as though the Office has interpreted these means-plus-function claim features in accordance with M.P.E.P. § 2181-82, as no reference is made to the specification to support the current interpretation of these elements as a “program per se”.

To the extent that the Office is taking the position that the inclusion of a software element in an otherwise statutory apparatus claim somehow takes the claims outside the realm of statutory subject matter, the Office is reminded that:

Computer programs are often recited as part of a claim. USPTO personnel should determine whether the computer program is being claimed **as part of an otherwise statutory manufacture or machine**. In such a case, the claim

**remains statutory irrespective of the fact that a computer program is included in the claim.**<sup>1</sup> (emphasis added)

Accordingly, should this rejection be maintained in a future communication, Applicant respectfully requests that the Office provide substantial evidence as to how apparatus Claims 1 and 6 can be considered a “program per se”, and how the means-plus-function elements noted above are interpreted as mandated by M.P.E.P. § 2181-82.

Regarding Claims 12, 15 and 18, these claims are amended to recite that specific structural (i.e. hardware) components of the “service providing apparatus” and “information processing apparatus” are configured to perform the features recited in these claims. As noted above, support for these claimed features can be found at least at Figs. 2 and 4 of the originally filed disclosure. Therefore, these claims can not reasonably be considered as a “program per se”, as set forth in the outstanding Office Action.

Accordingly, Applicant respectfully requests that the rejection of Claims 1, 6, 12, 15 and 18 are rejected under 35 U.S.C. § 101 be withdrawn.

The Office Action rejects Claim 18 under 35 U.S.C. 102(e) as anticipated by Simonoff. Applicant respectfully traverses this rejection, as independent Claim 18 recites novel features clearly not disclosed by Simonoff.

Independent Claim 18, for example, recites, in part, a service providing apparatus for providing a service to a plurality of information processing apparatuses via a network, said service providing apparatus comprising:

a network interface configured:  
... to receive a content request transmitted from any of the plurality of information processing apparatuses currently in the chat room;  
... to acquire the requested content in response to reception of a content request; and  
.... to transmit, when the network interface receives the content request, the acquired content *to all of the plurality of information processing*

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<sup>1</sup> See Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, USPTO 2005 (Annex IV, Computer Related Non-Statutory Subject Matter) page 53

***apparatuses currently in the chat room.***

Independent Claims 1, 4-6, 8-9, 12 and 15, while directed to alternative embodiments, recite similar features as those emphasized above. Accordingly, the remarks and arguments presented below are applicable to each of independent Claims 1, 4-6, 8-9, 12 and 15 and 18.

In rejecting the claimed features directed to receiving a content request, the Office Action relies on col. 14, ll. 14-32, col. 24, ll. 53-56 and col. 24, l. 65 – col. 25, l. 2 of Simonoff noting “server receive command to relay/upload the content (e.g. draw object or files) from the client”. More particularly, these cited portions of Simonoff describes a white board interface that includes various file drop down menus including commands for both uploading and downloading files to the white board server 102. Simonoff also describes that the white board interface depicts a web page listing files available for display on the white board client 301a.

Thus, Simonoff does appear to describe that a plurality of files available for download may be displayed via the web page, and a request to download one of the displayed files may correspond to a request for content. Simonoff, however, fails to teach or suggest that when these files are requested (e.g. a request for content) that the white board server 102 “transmits ... the ... content ***to all of the plurality of information processing apparatuses currently in the chat room***”. Instead, as described at col. 14, ll. 14-32, when a specific file is requested to be downloaded to one of the white board clients 302, this file is provided to the requesting client and not ***all of the plurality of information processing apparatuses currently in the chat room***, as claimed.

Moreover, in rejecting the feature directed to transmitting the requested content to all of the plurality of apparatuses currently in the chat room, the Office Action relies on col. 20, ll. 42-49, col. 24, ll. 18-27 and col. 24, l. 65 – col. 25, l. 2 of Simonoff. Col. 20, ll. 42-49 of Simonoff describes a process of synchronizing white board and chat room activity, and is not

related to transmitting content acquired at the server as the result of a received request to ***all of the plurality of information processing apparatuses currently in the chat room***, as claimed. Further, col. 24, ll. 18-27 and col. 24, l. 65 – col. 25, l. 2 of Simonoff merely describe a process of relaying commands associated with wrapper objects so that commands sent to the white board could be multicast to each of the white board clients. This process does not involve receiving a request for content at the server, acquiring the content, and then “transmit[ing] ... the ... content ***to all of the plurality of information processing apparatuses currently in the chat room***”, as claimed.

Further, none of Morris, Johnson or Erdelyi remedy the above noted deficiencies of Simonoff.

Accordingly, for at least the reasons discussed above, Applicant respectfully requests that the rejection of Claim 18 under 35 U.S.C. 102(e) be withdrawn. For substantially similar reasons, it is also submitted that independent Claims 1, 4-6, 8-9, 12 and 15 (and the claims that depend therefrom) patentably define over the applied references.

This amendment is submitted in accordance with 37 C.F.R. §1.116 which after final rejection permits entering of amendments canceling claims, complying with any requirement of form expressly set forth in a previous Office Action, or presenting rejected claims in better form for consideration on appeal. The present amendment merely amends independent Claims 1 and 4 to correct a minor informality noted in the outstanding Office Action, and amends Claims 12, 15 and 18 to replace the term “unit” with a corresponding structure, thus placing the application in better form for consideration on appeal. No new matter has been added, and this amendment does not raise new issues requiring further consideration and/or search. It is therefore respectfully requested that the present amendment be entered under 37 C.F.R. §1.116.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 1-2, 4-13 and 15-18 is patentably distinguishing over the applied references. The present application is therefore believed to be in condition for allowance and an early and favorable reconsideration of the application is therefore requested.

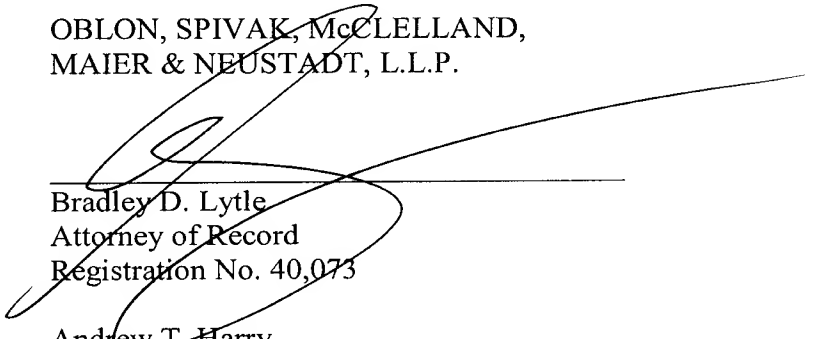
Respectfully submitted,

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